

Planning Department

FYI

TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
Telephone (978) 264-9636
Fax (978) 264-9630
planning@acton-ma.gov

MEMORANDUM

To: Planning Board

Date: July 22, 2005

From: Roland Bartl, AICP, Town Planner *R.B.*

Subject: Flags and Sign Bylaw

See attached correspondence and complaint. It is my understanding that in addition to National and State flags, a few other flags, such as the POW-MIA flag may have federal or State preemption. Therefore, local zoning is not applied or enforced on them regardless of what the bylaw says. It may be necessary for someone to document to the Building Commissioner any such preemption which may be under some obscure section of Federal or State law. From what the Building Commissioner tells me some of the flags he saw had fruits on them such as a watermelon. If those are colony flag replicas and enjoy Federal/State preemption it can surely be documented.

As for flags without such preemption, where would one reasonably draw the line between patriotic flags, other flags, and advertising (or using flags to draw attention)?

The zoning bylaw currently regulates flags with the following section under the category of "Prohibited Signs":

7.3.6 Except as specifically provided herein, any SIGN consisting of or containing pennants; ribbons; streamers; spinners; balloons; strings of lights not associated with a specific religious holiday; flags other than those identifying a nation, state, city or town or located on land owned by the Town of Acton; revolving beacons; searchlights; animation.

This matter was also brought to the attention of the Selectmen, who have forwarded it for input to Town Counsel.

I:\planning\planning board\docs\flags and sign bylaw.doc



Bursaw Gas & Oil, Inc.

*cc Gary Rhodes
Roland Baril*

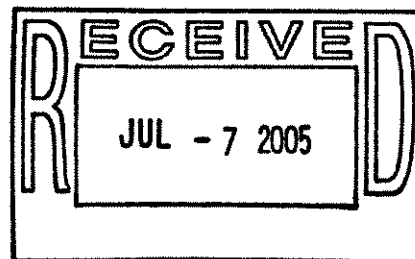
1-978-263-8752
FAX 978-263-1173

94 Great Road
Acton, MA 01720

1-800-221-5224

July 7, 2005

Town of Acton
Board of Selectmen
472 Main Street
Acton, MA 01720



Good Evening:

I am writing to you in response to a letter received from the Building Department regarding certain flags that we proudly fly on patriotic holidays at our facility at 94 Great Road.

The letter dated July 5, 2005, one day after our nation's birthday, states that only flags that identify a nation, state, city or town are permitted to be displayed in the Town of Acton and all others are subject to ticketing.

I know Gary Rhodes to be a respectable and fair man, and is, I assume, only repeating town by-laws, so I shall take issue directly with the town on this matter.

I have flown the MIA/POW flag on our flagpole since its creation. It also flies over the White House and is the only other flag besides the stars and stripes to do so. Congress has MANDATED the flying of this flag on numerous days of national observance. (Please see the enclosed document). It so happens this flag has flown on the Acton town common, behind our most recent war memorial, for several years.

The other flags in question are replicas of flags flown from the original thirteen colonies. These should not be offensive to anybody considering that several Revolutionary War heroes are buried one hundred feet from the town hall.

Copies of the other three flags are enclosed for you to see. They are the Vietnam Veterans, Korean War and World War II commemorative flags.

I feel the need to display these flags on patriotic holidays out of deep respect and guilt, as I never was required to lay in a rice field or charge a beach, as many of my relatives did.



Bursaw Gas & Oil, Inc.

1-978-263-8752
FAX 978-263-1173

94 Great Road
Acton, MA 01720

1-800-221-5224

I respectfully request that the town by-laws be changed to allow the display of these flags on appropriate holidays and the MIA/POW flag every day, as it has been here for over twenty five years.

Acton is a place I love very much and where I have been treated with respect. I am hoping you can find a way to make this issue go away to avoid, I am guessing, an embarrassing situation that nobody intended.

Respectfully,

BURSAW GAS & OIL, INC.

Jeffrey W. Bursaw
President



TOWN OF ACTON
472 Main Street
Acton, Massachusetts, 01720
Telephone (978) 264-9632
Fax (978) 264-9630

Building Department

July 5, 2005

Jeffrey Bursaw
Bursaw Gas & Oil Inc.
94 Great Road
Acton, MA 01720

Re; Special Event Sign Permit #T0425

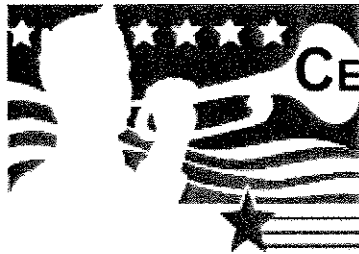
Dear Mr. Bursaw,

Enclosed please find your Sign Permit to display a special event a-frame sign. You requested the weeks of Memorial Day and April 19th. This permit expires at the end of a calendar year therefore the weeks of Memorial Day and April 19th have passed and can not be licensed. I have approved the weeks of July 4th and September 5th as requested for a total of 18 days.

I have noted you are now displaying numerous flags. Please be advised only flags that identify a nation, state, city or town are permitted to be displayed all others are subject to ticketing under the non-criminal bylaw. If you have any questions about the sign bylaw please contact me.

Sincerely,

Garry A. Rhodes
Building Commissioner



U.S. Department of Veterans Affairs
Washington, D.C. 20420

CELEBRATING AMERICA'S FREEDOMS

The POW/ MIA Flag



In 1971, Mrs. Michael Hoff, the wife of a U.S. military officer listed as missing in action during the Vietnam War, developed the idea for a national flag to remind every American of the U.S. servicemembers whose fates were never accounted for during the war.

The black and white image of a gaunt silhouette, a strand of barbed wire and an ominous watchtower was designed by Newt Heisley, a former World War II pilot. Some claim the silhouette is a profile of Heisley's son, who contracted hepatitis while training to go to Vietnam. The virus ravaged his body, leaving his features hallow and emaciated. They suggest that while staring at his son's sunken features, Heisley saw the stark image of American servicemembers held captive under harsh conditions. Using a pencil, he sketched his son's profile, creating the basis for a symbol that would come to have a powerful impact on the national conscience.

By the end of the Vietnam War, more than 2,500 servicemembers were listed by the Department of Defense as Prisoner of War (POW) or Missing in Action (MIA). In 1979, as families of the missing pressed for full accountability, Congress and the president proclaimed the first National POW/MIA Recognition Day to acknowledge the families' concerns and symbolize the steadfast resolve of the American people to never forget the men and women who gave up their freedom protecting ours. Three years later, in 1982, the POW/MIA flag became the only flag other than the Stars and Stripes to fly over the White House in Washington, D.C.

On August 10, 1990, Congress passed U.S. Public Law 101-355, designating the POW/MIA flag:

"The symbol of our Nation's concern and commitment to resolving as fully as possible the fates of Americans still prisoner, missing and unaccounted for in Southeast Asia."

Displaying the POW/MIA Flag

Congress designated the third Friday of September as National POW/MIA Recognition Day and ordered prominent display of the POW/MIA flag on this day and several other national observances, including Armed Forces Day, Memorial Day, Flag Day, Independence Day and Veterans Day. The 1998 Defense Authorization Act (P.L. 105-85) mandates that on these national observances, the POW/MIA flag is to be flown over the White House, the U.S. Capitol, the Korean and Vietnam Veterans War Memorials, the offices of the Secretaries of State, Defense and Veterans Affairs, offices of the Director of the Selective Service System, every major military installation (as directed by the Secretary of Defense), every post office and all Department of Veterans Affairs (VA) medical centers and national cemeteries. The act also directs VA medical centers to fly the POW/MIA flag on any day on which the flag of the United States is displayed.

When displayed from a single flag pole, the POW/MIA flag should fly directly below, and be no larger than, the United States flag. If on separate poles, the U.S. flag should always be placed to the right of other flags. On the six national observances for which Congress has ordered display of the POW/ MIA flag, it is generally flown immediately below or adjacent to the United States flag as second in order of precedence.

World War II Commemorate



Korean War Veterans



Vietnam Veterans of America

